

Motion to Allow Late Answer & Counterclaims

How to Use this Form

You can use this sample Motion to Allow Late Answer & Counterclaims form to ask the court to file your Answer if you miss the Answer deadline in your eviction case.

How to Fill Out this Form

Complete this form by following these instructions. The letters and numbers in these directions match those on the form.

Court Heading

- a. Write the name of your county.
- b. Write your landlord's name as it is written on the Summons and Complaint.
- c. Write your name as it is written on the Summons and Complaint.
- d. Copy the name of the court from the Summons and Complaint.
- e. Fill in the Docket Number. The Docket Number is the number the court has assigned to your case. The Docket Number is usually listed on the Summons and Complaint, or on the top right-hand side of a notice you receive from court telling you about a hearing or a decision. If it is unclear what the docket number for your case is, call the court clerk and ask for this number.

Motion Section

1. If you did not know that you had to file an Answer, check the box under number 1.
2. Write the reason you should win the eviction case or attach your Answer form to this motion. Check the box.
3. Complete your Answer form by using:
 - a. The Answer (Booklet 3) at:
<https://www.masslegalhelp.org/housing/lt1-booklet-3-answer.pdf>
 - b. A free online self-help guided interview, [MADE](http://www.gbls.org/MADE) at:
www.gbls.org/MADE.

Notice of Hearing

Call the [court's clerk](#) to ask the first date a judge can hear your motion. The court's phone number is on the top left corner of your Summons and Complaint. Write in the date the court will hear your motion in the Notice of Hearing section of your motion.

Certificate of Service

Anything you file in court you must also give to your landlord or your landlord's lawyer, if a lawyer signed the Summons. This part of the form that tells the court how and when you gave the Motion to Allow Late Answer and Counterclaims to the landlord

or their lawyer. Circle either "delivered," "emailed" or "mailed" and fill in the date you did this. If you mail it, send the motion by first class mail, not certified mail.

When you are done filling out the motion, sign your full name and write in your address, email address and telephone number.

How to Deliver the Motion

- Make two copies of the completed motion.
- Give the **original** motion to the court as soon as you can.
- Hand, email or mail a **copy** to your landlord (or their lawyer). The landlord (or their lawyer) should get the motion at least seven days before the hearing date.
- Keep a **copy** for yourself to bring to court.

(Please type or print)
**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT**

a. _____, ss

d. _____
Name of Court

e. _____
Docket Number

b. _____,
Plaintiff(s)- Landlord(s)

**MOTION TO ALLOW LATE ANSWER
AND COUNTERCLAIMS**

vs.

c. _____,
Defendant(s)- Tenant(s)

Now comes the Defendant and moves that this Court allow the Defendant to file a Summary Process Answer and Counterclaims as if timely filed. In support thereof, the Defendant states:

1. Defendant was unrepresented by counsel on their answer deadline.
 Defendant was unaware of their legal rights with respect to responding to the landlord's eviction complaint.
2. The Defendant has meritorious defenses to this action. *(List the reason you should win the eviction case or attach your Answer and check the box below)*

 The Defendant's proposed Answer is attached. (Check if you attached your Answer.)
3. Granting this motion will cause no undue prejudice to the Plaintiff. Tenants are permitted to file late answers containing affirmative defenses and counterclaims up to the start of trial. *Morse v. Ortiz-Vazquez, 20-P-342 (April 13, 2021).*

WHEREFORE, the Defendant requests that this Court grant this Motion to Allow Late Answer & Counterclaims as if Timely Filed, accept the filing of Defendant's Answer and Counterclaims, and continue this matter for two weeks to allow the Defendant to prepare his or her defenses and claims.

Notice of Hearing

This Motion to Allow Late Answer and Counterclaims as if Timely Filed is scheduled for a hearing on (the original trial date or other date scheduled by the court) _____ *(date)*.

Certificate of Service

I delivered, emailed, or mailed *(circle which one applies)* a copy of this Motion to my landlord or their lawyer on _____ *(date)*.

Your Signature

Your name *(print)*

Your email address

Address

City State Zip

Telephone Number